

REMARKS

In the present Application, Claims 1, 3, 4, 26, and 32 have been amended, Claims 21, 22, and 29 have been cancelled, and Claim 33 has been added. As such, Claims 1-14, 23-28, and 30-33 are currently pending.

The Examiner's rejections are as follows:

I. Claims 1-2, 21, 23-24, and 31 were rejected under 35 U.S.C. 103(a) as allegedly obvious over Kusui et al. in view of Yan et al.; and

II. Claim 25 was rejected under 35 U.S.C. 103(a) as allegedly obvious over Kusui et al. in view of Yan et al., and further in view of Huang.

Applicants submit that the arguments and amendments described below traverse the Examiner's rejections.

I. Claims 3-14 and 32

Prior to addressing the Examiner's rejections, Applicants note that independent Claims 3 and 32 have been amended. In particular, each of these claims now recites detecting the presence or absence of DNA methylation in DAPK and at least one additional gene selected from a recited group. The Examiner has indicated that such claims distinguish over the art stating:

The prior art does not appear to teach detecting DAPK to characterize breast cancer. Thus, the ordinary artisan would not have been motivated to analyze DAPK with the other known breast cancer associated genes. (Office Action, page 2).

As Claims 3 and 32 both recite detecting DAPK and at least one additional breast cancer associated gene, Applicants submit such claims should be passed to allowance.

II. Obviousness Rejection of Claims 1-2, 21, 23-24, and 31

The Examiner rejected Claims 1-2, 21, 23-24, and 31 under 35 U.S.C. 103(a) as allegedly obvious over Kusui et al. in view of Yan et al. Applicants disagree with this rejection.

Nonetheless, for business reasons and to expedite the prosecution of the present application, without acquiescing to the Examiner's rejection, while reserving the right to prosecute the original claims in the future, Applicants have amended Claim 1 in two ways. First, Claim 1 has been amended to recite that the biological sample is plasma. Neither Kusui et al. or Yan et al. teach the use of a plasma sample, nor suggest that plasma samples could be used successfully. Second,

Claim 1 has been amended to recite "at least five different primer pairs" of gene specific primers that are configured to "amplify five different promoters from at least five different genes." Neither Kusui et al. or Yan et al. teach the use of multiple different primer pairs configured to amplify promoters from different genes. For example, Yan et al. teach a *single* pair of universal primers specific for linkers that are employed, while Kusui et al.'s primers are all configured for detecting the same gene (human oxytocin receptor gene). As such, Applicants submit that the references cited by the Examiner fail to establish a *prima facie* case of obviousness against the Claims 1-2, 21, 23-24, and 31 as amended. Therefore, these claims should be passed to allowance.

Applicants note that new Claim 33 has been added. Claim 33 is similar to Claim 1 prior to the amendment, but includes limitations similar to those from Claims 26 and 27 related to the use of control nucleic acid and primers configured to amplify the control nucleic acid. Claims 26 and 27 were not previously rejected by the Examiner. As such, Applicants submit that new Claim 33 should be passed to allowance.

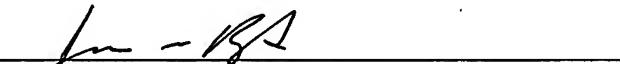
III. Obviousness Rejection of Claim 25

The Examiner also specifically rejected Claim 25 as obvious over the same two references described above, in addition to the Huang reference (Office Action, page 5). Applicants disagree with this rejection. However, Applicants submit that this rejection is moot in view of the claim amendments discussed above.

C O N C L U S I O N

Should the Examiner believe that a telephone interview would aid in the prosecution of this application, the applicant encourages the Examiner to call the undersigned collect at (608) 218-6900.

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